

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

HARRIS WYATT,

Plaintiff,

v.

ST. CHARLES COUNTY JAIL,

Defendant.

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No. 4:17-cv-1584-JAR

**MEMORANDUM AND ORDER**

This matter is before the Court *sua sponte*. For the reasons stated below, this case will be dismissed without prejudice.

Plaintiff brought this action by submitting a complaint in the form of a letter that stated his constitutional rights were being violated at the St. Charles County Jail. He named the jail as the sole defendant. Plaintiff did not pay the filing fee or move for leave to proceed *in forma pauperis*, and the Court directed him to do one or the other. He filed a motion for leave to proceed *in forma pauperis*, and in a Memorandum and Order dated July 27, 2017, the Court granted the motion and reviewed the complaint pursuant to 28 U.S.C. § 1915(e). The Court determined that the complaint was frivolous and subject to dismissal. However, in consideration of plaintiff's *pro se* status, the Court gave him the opportunity to submit an amended complaint. The Court clearly instructed plaintiff how to prepare the amended complaint, and cautioned him that, if he failed to timely comply with the Court's order, his case would be dismissed without prejudice and without further notice.

Plaintiff's response was due to the Court on August 17, 2017. To date, he has neither complied with the Court's order nor sought additional time to do so. Plaintiff was given

meaningful notice of what was expected, and cautioned that his case would be dismissed if he failed to timely comply. Therefore, this action will be dismissed without prejudice due to plaintiff's failure to prosecute his case and his failure to comply with the Court's July 27, 2017 Memorandum and Order. *See* Fed. R. Civ. P. 41(b); *see also* *Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (*per curiam*) (affirming dismissal without prejudice where *pro se* plaintiff failed to file an amended complaint despite being cautioned that dismissal could result from failure to do so); *Fitzwater v. Ray*, 352 F. App'x 125, 126 (8th Cir. 2009) (*per curiam*) (district court did not abuse its discretion in dismissing action without prejudice when the *pro se* plaintiffs failed to comply with an order "directing them to file within fourteen days an amended complaint in conformity with Rule 8"); *Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order).


Accordingly,

**IT IS HEREBY ORDERED** that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

**IT IS FURTHER ORDERED** that plaintiff's motion to appoint counsel (Docket No. 4) is **DENIED** as moot.

**IT IS HEREBY CERTIFIED** that an appeal from this dismissal would not be taken in good faith.

Dated this 18<sup>th</sup> day of September, 2017.

  
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**JOHN A. ROSS**  
**UNITED STATES DISTRICT JUDGE**